

AGENT INDIVIDUAL NONRESIDENT

LICENSING PROCEDURES AND INFORMATION

This document is for general information purposes only. It does not amend or precede provisions of the Kentucky Revised Statutes or Administrative Regulations. For more complete information, refer to the Kentucky Insurance Code.

The Kentucky Department of Insurance issues one license with several “lines of authority” to the agent. This one agent license lists all of the kinds of insurance that the agent is qualified to sell in Kentucky, which means the agent license may list any one or more lines of authority from either or both of the following lists:

- Casualty
- Health
- Life
- Personal Lines
- Property
- Variable Life & Variable Annuity

Or limited lines of authority:

- Credit only
- Crop-Hail only
- Mechanical Breakdown only (no new issued after 7-14-2002)
- Motor Vehicle Damage only (no new issued after 7-14-2002)
- Surety
- Travel (was identified as “representing common carriers” before 7-15-2002)

Further, this one agent license is the basis for appointments with all kinds of insurers that are approved to sell one or more of the lines of authority listed on the agent’s license.

Changes to the law in 2002 separated the agent license from the appointments. This means the **agent may hold a license without an appointment** as long as the agent fulfills any financial responsibility and continuing education requirements, confirms certain information at the time of license renewal, and pays the applicable license renewal fees. However, the **agent cannot use the agent license without an appointment**.

Exceptions to Agent License – Briefly, the requirement to be licensed as an agent does not apply to:

- Employee of an insurer or an insurance producer under specific circumstances if the employee does not receive any commission;
- Individual who furnishes information to or helps enroll persons in group plans and does not receive any commission;
- Representative of an employer, association, or trust who is administering an insured benefit program for employees or members and who does not receive any commission, directly or indirectly;
- Employee of an insurer who classifies risks or supervises insurance producers and is not selling, soliciting, or negotiating insurance;
- Person whose multi-state, mass media advertisement is inadvertently distributed in Kentucky;

- Person whose activities involve a policy sold in another state if the policy just happens to cover risks in Kentucky; and
- Salaried full-time employee who advises the employer relative to the insurance and does not receive any commission.

Specific details of these limited exceptions are found in KRS 304.9-090.

Note: A business entity must have an agent license in order to receive commission either directly or indirectly.

WARNINGS

Notice of Action Against License – Every licensee must notify the Department in writing within 30 days of initiation of:

- **Disciplinary action** taken by any jurisdiction against the license or any other professional license; or
- **Criminal action** taken by any jurisdiction against the licensee.

Address Change or Name Change – Every licensee must notify the Department, in writing, of any change in residence address, business address, or legal name within 30 days of the change. (However, viatical settlement brokers and viatical settlement providers must notify the Department at least **30 days prior** to the effective date of the change.) Agents, surplus lines brokers, rental vehicle agents and managing employees, specialty credit producers and managing employees, reinsurance intermediary brokers, and reinsurance intermediary managers are subject to a penalty up to \$1,000 for failure to do so. Adjusters, administrators, viatical settlement brokers, viatical settlement providers, and consultants are subject to a penalty up to \$2,000.

- **Address changes** should be submitted on Record Correction **Form 8303**. (Moving from Kentucky to another state may require surrendering the resident license and applying for nonresident license. Also moving to Kentucky from another state may require surrendering the nonresident license and applying for a resident license.)
- **Name changes** should be submitted on Record Correction **Form 8303** with pertinent legal documentation approving the name change, including any amendments filed with the Kentucky Secretary of State.

Form 8303 should include the licensee's name and identification number (the licensee's Social Security Number, Federal Employer Identification Number, or Department of Insurance identification number); and it should be submitted to the Department by mail to:

Department of Insurance
Agent Licensing Division
Post Office Box 517
Frankfort, KY 40602-0517

Or **Form 8303** may be submitted to the Department by facsimile to (502) 564-6030, or by e-mail to DOIAgentLicensingMail@ky.gov.

Corrected License Certificate – Because the insurance law requires that the license certificate contain the licensee's name, city and state of principal place of business address, and other pertinent information, every licensee that changes this information must request a corrected license certificate from the Department. To get a corrected license certificate with the name, city, or state change, the licensee must submit a request on **Form 8306** along with the out-of-date

original license certificate. A license certificate with the new name, new city, or new state will be provided without charge and will be mailed to the residence address of the licensed individual or to the business address of the licensed business entity.

Change of Home State – A nonresident licensee who changes his or her home state to a state other than Kentucky must file a change of address **Form 8303** and provide a Certification Letter from the new home state within 30 days of the change. No fee or license application is required.

Loss of Home State License – A Kentucky nonresident license based on reciprocity will automatically terminate and must be surrendered to the Department if the home state license terminates for any reason.

MISCELLANEOUS INFORMATION

Notice of Commissioner's Order – Every licensee is deemed to have received any notice or order of the Commissioner mailed to the licensee's address on file with the Department.

Licensee's Office Open to Public – If Kentucky is the Home State, the licensee is required to have and maintain an office in Kentucky that is accessible to the public, and that is the place where the licensee principally conducts transactions under the license. This requirement does not prohibit the licensee from maintaining this office in the office of an insurer, in the office of the employer, or in the home of the licensee. (Kentucky is the Home State if the licensee has a Kentucky resident license or has a Kentucky principal place of business without a resident license from another state.)

Display of License and Retention of Records – The license of all licensees must be conspicuously displayed in each Kentucky place of business in a part customarily open to the public. In addition, complete records of transactions under the license must be kept at the place of business for at least 5 years after completion of the purpose for which it was created. [KRS 304.9-390 and 806 KAR 2:070]

Service of Process – All nonresident licensees are deemed to have irrevocably appointed the Kentucky Secretary of State to receive service of process in any court action against the licensee arising out of transactions under the Kentucky license.

Designations – A licensed business entity can only exercise its license through a designated licensed individual. Each designated individual has to hold the same kind of license as the business entity and, if the business entity license has lines of authority, have at least one of the same lines of authority. Further, the designated individual may only exercise the business entity license for the lines of authority held in common by both the business entity and the individual. (For example, a business entity agent is like a building: it cannot operate unless there is an individual to sell the policies and an insurance company to issue the policies. So, the business entity agent must designate individual licensed agents and have appointments with insurers. Likewise, the individual agent must have at least one appointment of his or her own with an insurer.)

Each licensed business entity must file with the Department:

- **Form 8305 – Notice of the designation** of an individual within 30 days of the designation;
- **Form 8305 – Notice of termination** of the designation within 30 days of the termination of designation; and
- **Annual report** by January 31 of all designated individuals whose designations are not terminated prior to January 1. (The Department will provide the form or format to be used for this report.)

Certification / Clearance Letter from Kentucky Department – If an applicant for a license in another state holds or has held a Kentucky resident license, the other state will probably require a letter from the Kentucky Department of Insurance. A Certification Letter states that the license is active and in good standing in Kentucky (needed to license a Kentucky resident licensee as a nonresident licensee in another state). A Clearance Letter states that the former licensee was in good standing at the time the Kentucky license terminated (needed to license a former Kentucky resident licensee as a resident licensee in another state). Kentucky has combined these two letters:

- If the license is active, the letter will serve as a certification letter for the current license activity; and
- If the license is no longer active, the letter will indicate the last date of license and the date it became inactive, thus serving as a clearance letter.

Each letter must be requested in writing on the Certification/Clearance Letter Request Form with the licensee's full name, identification number (the licensee's Social Security Number, Federal Employer Identification Number, or Department of Insurance identification number), and type of letter needed. Also, the licensee must indicate where the processed paperwork should be mailed (or provide a properly addressed envelope to expedite the process). A check made payable to the "Kentucky State Treasurer" in an amount of \$5 for each letter requested should be enclosed with the request.

Certification / Clearance Letters to Kentucky Department – Kentucky requires a letter (or verification through the NAIC Producer Data Base) from the other state if the applicant for a Kentucky license holds or has held a resident license in the other state. These letters are commonly known as Certification Letters and Clearance Letters.

- **Request for Kentucky Nonresident License –**
 - A nonresident individual or business entity applying for a Kentucky nonresident license, must file the original of a **Certification Letter** from the applicant's home state indicating that the applicant is in good standing with the home state.
 - A nonresident individual or business entity, which has a Kentucky nonresident license and changes its home state, must file the original of a **Certification Letter** from the new home state and file a record correction **Form 8303**.
- **Request for Kentucky Resident License –**
 - A nonresident individual or business entity, which is applying for a Kentucky resident license and was formerly licensed as a resident in a state other than Kentucky, must file the original of a **Clearance Letter** from its prior home state indicating that the applicant was in good standing with that state at the time the resident license terminated.

Purchase of Kentucky Insurance Code – Because there is so much involved in the licensing and the legal duties imposed on a licensee, the Department suggests that every licensee get a copy of *Kentucky Insurance Laws and Regulations, 2002 Edition*. This Kentucky insurance code can be purchased for \$39 through the Department of Insurance. It will provide a better understanding of Kentucky insurance laws and procedures. In the alternative, the licensee may access Kentucky’s insurance laws and administrative regulations through the Legislative Research Commission Web site at www.lrc.state.ky.us under “[Legislative Resources](#).”

Forms and Additional Information – Kentucky-specific applications and most other forms for all licensees are available through the Department’s Web site at <http://doi.ppr.ky.gov/kentucky> under the “[Agent Licensing](#)” section of the menu titled “Licensee Procedures, Forms and Information.” Also visit this Web site for additional information on all types of licenses, as well as verification of license status, continuing education credit, appointment, designations with business entities, etc. The Licensing Division is also available to provide information and answer questions through its e-mail address at DOIAgentLicensingMail@ky.gov or by telephone at (502) 564-6004.

The NAIC uniform applications for nonresidents may be obtained through NIPR Web site address at www.licenseregistry.com.

INDIVIDUAL NONRESIDENT AGENT

Nonresidents may be licensed as agents in Kentucky by submitting the appropriate application and meeting the applicable requirements:

- For reciprocity under KRS 304.9-140 if the applicant holds an agent license with the same or substantially similar lines of authority in a reciprocal state; OR
- For a resident if the applicant is not licensed as an agent in a reciprocal state or if Kentucky is the home state. (See the requirements in the information summary concerning the resident agent licensing requirements.)

QUALIFICATIONS for RECIPROCITY (KRS 304.9-140) – unless denied a license under KRS 304.9-440, the nonresident applying for an agent license must:

- Hold an agent license (with the same lines of authority being requested in Kentucky) as a resident in the home state and be in good standing;
- Hold the resident license from a home state that awards nonresident licenses to Kentucky residents on the same basis;
- Submit the proper request for license; and
- Pay the applicable fees.

APPLICATION – The applicant is required to certify, under penalty of perjury, that the application for the license is true. Further, the Department must receive the following to process the individual’s application:

NAIC Uniform Individual Application (completed in its entirety and attaching the appropriate information)

Original Certification Letter from reciprocal home state or verification through the NAIC Producer Data Base, if nonresident

If using assumed name, copies of Certificate of Assumed Name filed with each Kentucky County Clerk where the applicant intends to transact business

All applicable fees

FEES – The license fee for the nonresident individual applicant is \$50 for the agent license plus an additional \$50 for each line of authority.

PRELICENSING TRAINING – No prelicensing training is required.

EXAMINATION – No examination is required.

FINANCIAL RESPONSIBILITY – No specific proof of financial responsibility is required to be filed with the Department.

APPOINTMENT – In order to exercise the license, the agent must obtain **at least one appointment** with an admitted insurer for that line of authority in order to write or do business in that particular line of authority. Further, the agent may get appointments with additional insurers at any time that the insurer files with the Department

- Appointment – **Form 8302-AP**; and
- Applicable fees, if any.

Appointment fees for each foreign or alien insurer as well as each health maintenance organization, limited health service organization, fraternal benefit society, or KRS Chapter 304 Subtitle 32 Corporation represented, are

- Property, Personal Lines, and Casualty lines of authority of agent, \$50;
- Life, Health, and Variable Life & Variable Annuity lines of authority of agent, \$50; and
- All other lines of authority of agent, \$50 each.

(The fee for a bundle of lines of authority is \$50 only if the lines of authority are applied for at the same time on the same appointment form.)

AGENT REPRESENTATIVE – A licensed agent may act as a representative of an insurer without being appointed for 30 days from the date the first insurance policy application is executed if the agent has on file with the Department proof of financial responsibility for at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Further, the agent representative must receive acknowledgement of approval of appointment within 30 days from the date the first insurance policy application is executed; otherwise, the agent must discontinue acting as an agent for that insurer until the approval has been received.

APPOINTMENT RENEWAL – Appointments are renewed biennially by March 31 through appointing insurers. Each insurer receives a list from the Department's records showing all agents with active appointments as of December 31 of the preceding calendar year. (The insurer is responsible for terminating any appointment prior to December 31 if the insurer does not want to pay the renewal fee for that agent. Further, the insurer must give written notice to any agent who is terminated or who is not renewed within 30 days of the termination or non-renewal.) The insurer must pay the appointment renewal fee no later than March 31 for each agent on the list sent by the Department in:

- Odd-numbered years for life and health insurers, including health maintenance organizations, limited health service organizations, fraternal benefit societies, and Subtitle 32 Corporations; and

- Even-numbered years for all other insurers.

ADDITIONAL LINES OF AUTHORITY –

- **Held in Home State** – Once the licensee has a nonresident agent license through reciprocity, the agent may add other lines of authority by repeating the nonresident application process if the new lines of authority are included in the home state license.
- **Not Held in Home State** – If the new lines of authority are not included in the home state license, the agent will have to qualify for the new lines of authority like a Kentucky resident including the completion of any required prelicensing training and any required examination. (See the information summary concerning the resident agent for details.)

LICENSE RENEWAL – The license continues in force until expired, suspended, revoked, or otherwise terminated if the licensee makes a written request for continuation, confirms any applicable financial responsibility and certain other information in the Department's records, and pays the renewal fee as follows:

- Agent with one or more active appointments No fee
- Agent with no active appointments \$50

The renewal invoice and the payment of the license renewal fee stated on the renewal invoice are due by the end of the individual licensee's birth month in:

- Odd-numbered years for licensee born in odd year; and
- Even-numbered years for licensee born in even year.

(At least 30 days before the renewal deadline, the Department will send the licensee the renewal invoice containing all of the information that must be confirmed as well as the amount of the renewal fee due.)

All licensees are responsible for their own license renewal. **Each licensee must**

- **Sign** the renewal invoice verifying all information is accurate,
- **Return the renewal invoice** directly to the Department, and
- **Remit** any required license **renewal fee** to the Department with the renewal invoice.

(The licensee can check the Department's Web site to confirm that the Department has received both the signed renewal invoice and any required renewal fees.)

Failure to Renew License by Deadline – If the Department does not receive the signed renewal invoice and any required fees by the deadline, the license will be automatically terminated as of the deadline and the licensee will be prohibited by law from exercising the license in any way (other than to receive renewal commission or deferred compensation on old business) until the license is reissued.

However, if the licensee submits the signed renewal invoice, the late renewal penalty payment, and any required renewal fees within 90 days after the deadline, the license will be reissued without the need for a new license application or other documentation. Note that there will be a gap in the license (and any appointments) from the date of the deadline until the date the Department receives the signed renewal invoice, penalty, and any required renewal fees.

CONTINUING EDUCATION – All individual agents who received their license through reciprocity and who have met the continuing education requirements of their home state are deemed to have complied with Kentucky's continuing education requirements.